

**CITY OF CEDARBURG
COMMON COUNCIL
December 11, 2017**

**CC20161211-1
UNAPPROVED**

A regular meeting of the Common Council of the City of Cedarburg, Wisconsin, was held on Monday, December 11, 2017, at City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. Mayor Kinzel called the meeting to order at 7:00 p.m.

ROLL CALL: Present - Common Council – Mayor Kip Kinzel, Council Members John Czarniecki, Jack Arnett, Dick Dieffenbach, Rick Verhaalen, Mitch Regenfuss, Patricia Thome, Mike O’Keefe

Also Present - City Administrator/Treasurer Christy Mertes, City Attorney Michael Herbrand, Director of Engineering and Public Works Tom Wiza, Police Chief Tom Frank, Deputy City Clerk Amy Kletzien, City Planner Jon Censky, Library Director Linda Pierschalla, Economic Development Coordinator Mary Sheffield, Chamber of Commerce Director Jennifer Andreas, Steve Chandler and Greg Fuson from ChandlerThinks, School Superintendent Todd Bugnacki, School Board Member Kevin Kennedy, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

At Mayor Kinzel’s request, Deputy City Clerk Kletzien verified that notice of this meeting was provided to the public by forwarding the agenda to the City’s official newspaper, the *News Graphic*, to all news media and citizens who requested copies, and by posting in accordance with the Wisconsin Open Meetings law. Citizens present were welcomed and encouraged to provide their input during the citizen comment portion of the meeting.

APPROVAL OF MINUTES

Motion made by Council Member Thome, seconded by Council Member O’Keefe, to approve the minutes of the November 27, 2017 meeting as presented.

In answer to Council Member Dieffenbach’s question, City Administrator/Treasurer Mertes stated that Ansay & Associates is doing research and the flood plain insurance most likely will be reduced to \$3,000,000.

Motion carried without a negative vote.

COMMENTS AND SUGGESTIONS FROM CITIZENS – None

PRESENTATIONS

PRESENTATION BY CHANDLERTHINKS ON CEDARBURG BRANDING INITIATIVE

Council Member Arnett introduced Steve Chandler and Greg Fuson of ChandlerThinks who was hired by six entities, including the City of Cedarburg, for the Cedarburg branding initiative. They will be in the City for a few days to talk to a number of stakeholders.

Steve Chandler said that his company helps communities brag about themselves and manage their reputation. They will help preserve what is good about the community and also progress and grow the Cedarburg way.

He explained that he has worked with 110 different communities in the last twelve years, which brings experience that is relevant to the task at hand. Branding is difficult and involves more than creating a new logo and a catchy tagline. It is very different from branding a product that sits on shelf at the store because these products: 1) all own their name; 2) have complete control of their product; and 3) have complete control of top down command. People do not necessarily remember the logo or tagline for a community but they do remember how you made them feel, where they ate, the stores they visited, and the extra touch of hospitality they received. The branding is about a central story. He referred to Tennessee as the music city and explained that it is part of its DNA. Steve Chandler will be researching and talking to people in the community without bias. The group will tour the City and hold group discussions including businesses, arts, retail, and students from CHS over the next few days. They will also talk to neighboring communities to get a feel for Cedarburg's reputation. Afterwards, they will return to Tennessee to discuss the information that was gathered and make a survey available to the citizens of Cedarburg. Steve Chandler will return in two to three months with a presentation. This will be followed by the creative process to develop the story for Cedarburg. Steve Chandler explained that the City's image and reputation will always be a permanent agenda item and will not stop with a logo and tagline. They will provide information on how to keep branding on the agenda at all times.

Council Member Thome asked that they go inside the Cedarburg Performing Arts Center and backstage because it is a huge asset.

NEW BUSINESS

CONSIDER RECOMMENDATION OF POLICE CHIEF TO DENY NEW OPERATOR'S LICENSE APPLICATION OF J RYAN FONDER; AND ACTION THEREON

Police Chief Frank recommended the denial of an Operator's License for J Ryan Fonder based on two criminal drug arrests from 1996 and another more recent arrest in 2013 of criminal damage to property; however, the District Attorney did not charge that crime. The applicant also failed to disclose on his application the felony arrest and conviction.

In answer to Council Member Verhaalen's question, Police Chief Frank explained that the difference between a misdemeanor and a felony is the seriousness of the offense. Generally, a second criminal drug arrest is charged as a felony.

In answer to Council Member Thome's question, Police Chief Frank explained that a felony drug charge for a licensed bartender applicant is a serious matter.

In answer to Council Member O'Keefe's question, Police Chief Frank confirmed that the criminal damage account was not charged and a citation was not issued.

Mr. Fonder stated that he is currently a bartender at Morton's. In 1996 he was 19 years old and was pulled over for speeding and caught with a pot pipe for the second time. He had a public defender and he pled guilty to a felony charge at the recommendation of the public defender. He has not had any drug or alcohol related incidents since 1996. He needs a second job to be certain that his

children stay on the straight and narrow. He has three sons, ages 18, 17 and 3. He is doing whatever he can to make enough money to provide for them the best that he can. He is hoping the Council can look past the letter of the law and grant him the license.

In answer to Council Member Verhaalen's questions, Mr. Fonder stated that he did not disclose his conviction because he has a concealed carry license, is a registered voter, and carries a passport. He did not think that the felony was still relevant and that there was a statute of limitations. He was naïve and did not realize the record would go back 21 years. The criminal damage charge was the result of an argument and him throwing a pumpkin through a screen door.

In answer to Council Member O'Keefe's question, Mr. Fonder said that he was not charged with domestic violence, it was criminal damage to property on a rental property. All charges were dropped and he never had to pay a fine.

In answer to Council Member Dieffenbach's question, Mr. Fonder stated that if the license is denied he would have to switch to another position or work with another licensed bartender, which would limit his hours.

Council Member O'Keefe asked to look at the application. He stated that the form specifically asks if the applicant was ever convicted of a felony and he answered, no.

Mr. Fonder stated that was not clear because in any other instances where he has to prove whether or not he is a felon (concealed carry license, voter registration, or passport application) there has not been an issue. It is his ignorance as to how the law is written and recorded. He should have read the application better; however, clear language is not necessarily all there is to it; especially with governmental forms. He has gone through life thinking that he is not a felon and that portion of his life is in the past and he has moved on but it continues to surface.

In answer to Council Member Verhaalen's question, Mr. Fonder explained that he owns a repair/maintenance company for rental properties in Milwaukee since 2014; however, he has been doing this work for 20+ years.

Mayor Kinzel stated that the City does not take these situations lightly and he appreciated that Mr. Fonder answered the questions.

Mr. Fonder replied that he understood how the law is written and he came to plead his case. He thought it may be a lost cause; however, he wanted to explain anyway. It happened 21 years ago and he is just a struggling dad.

Council Member Arnett asked Chief Frank if it was still his recommendation to deny the operator license after hearing Mr. Fonder's testimony.

Chief Frank stated that he thought it was deceptive not to answer the question properly and that his name was shown as Jay from the State of Wisconsin.

Mr. Fonder stated that J is his legal name and is shown that way on his birth certificate, social security card and driver's license. When he was in grade school he would sign his name as Jay; however, his name has always been the letter "J."

Motion made by Council Member O'Keefe, seconded by Council Member Czarnecki, to deny the new Operator's License application of J Ryan Fonder based on the recommendation of the Police Chief. Motion carried without a negative vote.

CONSIDER REQUEST TO HIRE A POLICE OFFICER AND TO PROMOTE A PATROL SERGEANT; AND ACTION THEREON

Police Chief Frank recently received a letter of intent from Patrol Sergeant Richard Leach to retire on January 5, 2018. As a result, he is asking permission to replace an officer as to remain at 20 sworn officers, if he in fact retires on January 5. In addition he wants to promote a patrol officer to fill the Patrol Sergeant position.

In answer to Council Member O'Keefe's question, Chief Frank stated that the promotion would be handled internally. Once the Council approves of the budget amount, the Police & Fire Commission will determine the process for the promotion, the Department will make a recommendation, and the Commission will either approve or deny the recommendation.

Motion made by Council Member O'Keefe, seconded by Council Member Dieffenbach, to authorize hiring a Police Officer and promoting a Patrol Sergeant. Motion carried without a negative vote.

CONSIDER ORDINANCE NO. 2017-31 AMENDING SEC. 15-5 OF MUNICIPAL CODE RELATING TO SUBDIVISION SIGNAGE; AND ACTION THEREON

Planner Censky stated that this ordinance will serve to amend the Sign Code to permit subdivision identification signs, subject to Plan Commission approval. Currently these signs are prohibited. The proposed ordinance requires that all subdivision identification signs be monument style signs at a maximum height of 7 feet and 32 square feet per face in size and that no more than two identification signs will be allowed per subdivision. Furthermore, there shall be a 5-foot landscaped area extending out from the base of the sign and Plan Commission approval shall be required. Additionally, the signs may be externally lit but will need to be shielded as to not see a point source. This request originated with a request for the Glen at Cedar Creek Subdivision. The Plan Commission felt that if properly designed and appropriately lit, subdivision signs would not be offensive and they directed staff to draft an ordinance to establish rules governing the height, size, aesthetics and location.

In answer to Council Member Verhaalen's question, Planner Censky explained that a maximum of two identification signs were chosen because often you will see two signs at the main entrance or a subdivision with two arterial roads.

City Attorney Herbrand stated that the language of Ordinance No. 2017-31(e)(2) specifies that there shall be not more than two (2) subdivision identification signs for each point of vehicular access to the subdivision.

Council Member Arnett expressed concern for established neighborhoods requesting signs.

Planner Censky stated that signs are generally used in platted subdivisions and as more subdivisions are built on the outskirts of the City they want to be identified. To be classified as a subdivision, is based on the plat.

Council Member Arnett asked if seven feet was too tall in regard to vehicular access and site lines.

Planner Censky explained that any sign requests will have to go through an approval process, which includes every City Department reviewing it for the sign and location for those types of concerns.

Council Member Arnett questioned signs that may look dated after a while and what if a subdivision does not have a homeowners association to enforce maintenance of the signs.

Council Member Verhaalen understood Council Member Arnett's concerns that initially the sign is new; however, they may not have a provision to maintain it or pay for the electricity.

Planner Censky stated that typically the newer developments have a homeowners association. In regard to Cedar Pointe, this subdivision has several different phases and there was never a request for signage. It does address maintenance of the signs in Ordinance No. 2017-31 Sec. 15-5-14(e)(7) *Maintenance. The sign and adjacent landscaping shall be maintained to the standards as originally erected/installed in perpetuity.* If the sign deteriorates, the City will be able to enforce repair of the sign.

Council Member Thome stated that her neighborhood has 19 houses and they have Owner Association fees. They are a good example; however, they do not want a sign. She understands that there is a liability anytime you add a standing structure. There will be a full review and evaluation before a sign is approved.

Mayor Kinzel stated that most signs are being requested for subdivisions on the outskirts of the City and the signs will help identify those subdivisions. He did not see existing neighborhoods requesting signs.

In answer to Council Member Arnett's question, Planner Censky stated that the ordinance applies to any new signs so adding an effective date is not necessary.

Motion made by Council Member Verhaalen, seconded by Council Member Thome, to adopt Ordinance No. 2017-31 amending Sec. 15-5 of Municipal Code relating to subdivision signage.

Council Member Dieffenbach asked for an amendment to the motion to only allow a two side display maximum. The amendment failed for lack of a second motion.

The main motion carried with Council Members Czarnecki, Dieffenbach, Verhaalen, Regenfuss, Thome and O'Keefe voting in favor and Council Member Arnett opposed.

CONSIDER ORDINANCE NO. 2017-32 AMENDING SEC. 3-6-3 TO 3-6-7 OF THE MUNICIPAL CODE ADJUSTING THE IMPACT FEES FOR LIBRARY FACILITIES, POLICE DEPARTMENT FACILITIES, WATER SUPPLY FACILITIES, PARK FACILITIES, AND WASTEWATER TREATMENT PLANT; ORDINANCE NO. 2017-33 AMENDING SEC. 9-2-6(c) ADJUSTING THE SANITARY SEWER CONNECTION FEE; AND ORDINANCE NO. 2017-34 AMENDING SEC. 14-1-84 ADJUSTING THE FEES IN LIEU OF PARKLAND AND AMENDING SEC. 14-1-100(g) ADJUSTING THE PUBLIC SITE FEES BASED ON THE CONSTRUCTION COST INDEX PUBLISHED IN THE ENGINEERING NEWS RECORD AND CALCULATED BASED ON THE ANNUAL INCREASE IN THE CCI INDICES; AND ACTION THEREON

Director Wiza explained that this affects three different ordinances. Every year the City adjusts the impact fees, sewer connection fee and fees in lieu of parkland based on the 20 City Construction Cost Index published in the Engineering News Record and calculated based on the annual increase in the CCI Indices. This year's inflationary index is a 3.3% increase.

Mayor Kinzel asked if the City was monitoring the increases to ensure that the City is not pricing themselves out of any future developments.

Director Wiza said that most of the increases should be representative and it is a 20 City index that is averaged among them.

City Administrator/Treasurer Mertes stated that Baker Tilly was hired to do a study and provide the base fees for the City in 2013 or 2014.

Council Member Czarnecki asked how an impact fee is defined for a new house. City Administrator/Treasurer Mertes stated that it is based on future growth. Council Member Czarnecki understands the cost to hook up sewer and water; however, the cost going forward should be real estate taxes.

Director Wiza stated that the sewer connection fee deals with a study that was done on the oversizing costs. For example when The Glen on Cedar Creek was constructed, it required some 21" diameter sanitary sewer pipes to serve the future business park and broad areas more than the subdivision. The developer paid for an 8" equivalent and then the City paid the oversizing costs based on pipe materials. The oversizing costs are paid with these fees that were collected. The regional lift station that was just built drained all of the sewer impact fees for that project. A water tower is an example of something that serves everyone and this is drawn from the newcomers that are making that need more critical.

City Attorney Herbrand explained as stated by City Administrator/Treasurer Mertes that the City commissioned a study to quantify these expansion costs for the different departments.

City Administrator/Treasurer Mertes stated that the City has a limit as to what can be collected and then the City will stop collecting.

Council Member Czarnecki asked how the City of Cedarburg compares to surrounding communities.

City Administrator/Treasurer Mertes stated that the fees in other communities are dependent upon their projects. The City's was based on the police station, library, future building, and the cost for sewer improvements.

Director Wiza stated that there are communities that don't utilize a lot of impact fees; however, the City has a good array of them.

City Administrator/Treasurer Mertes stated that some of the fees will be used for the new water tower.

Director Wiza stated that parkland fees are collected because a park may not be needed in a specific subdivision but the fee could be used to build a larger park or ball diamonds somewhere else.

Mayor Kinzel wants to be certain that the City is not pricing itself out of new development.

In answer to Council Member Verhaalen's questions, City Administrator/Treasurer Mertes confirmed that the impact fees cannot be used for anything other than the intended use and if it is not spent in five years it needs to be returned.

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to adopt Ordinance No. 2017-32 amending Sec. 3-6-3 to 3-6-7 of the Municipal Code adjusting the impact fees for library facilities, police department facilities, water supply facilities, park facilities, and wastewater treatment plant; Ordinance No. 2017-33 amending Sec. 9-2-6(c) adjusting the sanitary sewer connection fee; and Ordinance No. 2017-34 amending Sec. 14-1-84 adjusting the fees in lieu of parkland and amending Sec. 14-1-100(g) adjusting the public site fees based on the Construction Cost Index published in the Engineering News Record and calculated based on the annual increase in the CCI Indices. Motion carried without a negative vote.

**CONSIDER ORDINANCE NO. 2017-35 – REPEAL AND RECREATE TITLE 14
CHAPTER 2 OF THE MUNICIPAL CODE – STORMWATER MANAGEMENT; AND
ACTION THEREON**

Director Wiza stated that the DNR is requiring municipalities to update their stormwater (Ordinance No. 2017-35) and erosion control (Ordinance No. 2017-36) ordinances to be consistent with current State laws and to help achieve water quality standards. As part of a 50% matching State grant program, the City retained AECOM to redraft these ordinances. The City Attorney has reviewed and edited the language to address legal concerns.

In answer to Council Member Dieffenbach's questions, Director Wiza explained that AECOM typically does a lot of stormwater consulting for the City. The changes are not shown in the ordinances because 80% of them were rewritten according to State standards. The ordinances were reviewed by Building Inspector Baier for construction site erosion control and by him for the stormwater management. Council Member Dieffenbach expressed concern for not having the information needed to make a decision.

Motion made by Council Member Arnett, seconded by Council Member Czarnecki, to adopt Ordinance No. 2017-35 to repeal and recreate Title 14 Chapter 2 of the Municipal Code – Stormwater Management. Motion carried with Council Members Czarnecki, Arnett, Verhaalen, Regenfuss, Thome and O'Keefe voting in favor and Council Member Dieffenbach abstaining.

**CONSIDER ORDINANCE NO. 2017-36 – REPEAL AND RECREATE TITLE 15
CHAPTER 2 OF THE MUNICIPAL CODE – CONSTRUCTION SITE EROSION
CONTROL; AND ACTION THEREON**

Motion made by Council Member Arnett, seconded by Council Member Czarnecki, to adopt Ordinance No. 2017-35 to repeal and recreate Title 15 Chapter 2 of the Municipal Code – Construction Site Erosion Control. Motion carried with Council Members Czarnecki, Arnett, Verhaalen, Regenfuss, Thome, and O'Keefe voting in favor and Council Member Dieffenbach abstaining.

DISCUSS MISSED GARBAGE PICKUPS BY WASTE MANAGEMENT; AND POSSIBLE ACTION THEREON

Director Wiza explained that earlier this year Waste Management approached the City with a proposal to add Friday refuse and recycling collection. Prior to that, the City-wide refuse and recycling pickup was completed in four days. In consideration of the growth that has occurred in Cedarburg, the City agreed to the Monday through Friday pick up. Unfortunately the Friday pick up creates some special circumstances when there is a holiday during the week and the Friday pick up moves to Saturday. Since City Hall is closed Saturday, residents have no way to report missed pickups, therefore, it is imperative that Waste Management complete the Saturday pickup as scheduled. Often time the residents are bringing their refuse to the curb several times before it is picked up. There were 159 missed garbage pickups on Friday, December 1 and it did not involve a holiday.

Director Wiza added that this is a major frustration for residents on the Friday route, and it has happened three times this year to some residents. Since the City has not heard from Waste Management about how they plan to prevent this from happening again after reaching out to them, he recommends the City fine them \$25 per missed collection.

Council Member Arnett has received feedback from residents on the Friday collection and no one is in favor of it. He questioned why Waste Management has not returned Director Wiza's inquiry.

Director Wiza stated that he would appreciate a call back. He heard that the driver was instructed to end his work when he reached so many hours. He hopes this is not the case moving forward.

District Manager Matt McGuren from Menomonee Falls Waste Management apologized for the poor service they provided to the City. He did not have any excuses for the lack of service; they take service very serious, second to the safety of the community and their drivers. Mr. McGuren explained that they have a new management staff within the last month and a half. Kent Fassbender, the residential route manager who manages Michael Smith is also new.

In answer to Council Member Arnett's question, Matt McGuren stated that Tony is now the public sector representative/sales person and that he will be the operations contact for the City. Mr. McGuren stated that going forward Kent and Matt can be contacted directly with any future concerns.

Council Member Arnett asked Mr. McGuren what the plan will be if there is another missed pick up day. Mr. McGuren stated that they would contact the City and they will also have designated back up drivers as needed to complete the route for the City. They do have DOT regulations and road policies to follow; however, they will work to monitor hours during the week and provide someone to complete the service.

Director Wiza appreciated Mr. McGuren's plan because it is a challenge when the Friday pick up goes to Saturday and there is no one available to take calls. If Mr. Smith is unable to finish the route on Friday it is critical to get someone to finish that route on Friday.

Council Member Czarnecki stated that the growth in the City prompted the five day refuse pick up and people do not like the Friday pickup. He suggested going back to a four day schedule instead of fining Waste Management.

In answer to Council Member Czarnecki's question, Director Wiza stated that the Waste Management contract is set until December 31, 2020. All the fees are set until then and the City is charged per pick up. The Friday pick up was a request from Waste Management. The City is unusual with manual refuse pick up allowed. In the future, the City will need to consider going with an automated pick up. There are advantages and disadvantages to the automated service. A manual route for Mr. Smith is getting physically hard for him to pick up this much garbage in the City every week.

Council Member Arnett suggested adding another employee to the route on Friday.

Council Member Thome stated that the truck has broken down several times and she asked how much of the delays are mechanical failure.

Mr. McGuren stated that no mechanical failure contributed to the last delay in pickup. They usually collect 10 – 11 tons of refuse and that week Michael collected 14 – 16 tons of refuse and that caused him to slow down with his manual collection. He is not making excuses, as they failed on service. He stated that they have 8 – 10 new trucks being added to their fleet next year and he does not recall if one will be coming to Cedarburg.

In answer to Council Member Dieffenbach's question, Mr. McGuren confirmed that it is their policy to work 57.5 hours per week excluding lunches but it is not their policy to not complete a route. They have drivers that have time left on their route that can come to Cedarburg to help finish a route. It was communication gaps that caused them not to send another driver to Cedarburg to complete a route.

Council Member Dieffenbach stated that Waste Management cannot just go home without finishing their service and Mr. McGuren agreed. Council Member Dieffenbach was not in favor of a penalty this time; however, if service is delayed again until Monday it will be a \$25 fine per missed pick up because it should never be delayed until Monday.

Council Member Arnett was interested in returning to a 4 day per week pick up and suspected it was unlikely to happen.

Mr. McGuren made a commitment to Council Member Dieffenbach and the City that pick up will be finished on Friday or Saturday morning at the latest. He will provide his cell phone number to be reached, if necessary.

Council Member Czarnecki stated that the City will not accept bad service in the future. The City is paying for service and there will need to be some discussion if this continues.

Mr. McGuren stated that he is confident in the current plan and communication going forward that they can fix the problem.

CONSIDER APPOINTMENT OF ELECTION OFFICIALS FOR THE PERIOD 01/01/18 THROUGH 12/31/19; AND ACTION THEREON

Election Officials are appointed by the Mayor in December of odd-numbered years to serve a two-year term. The election officials to be considered will serve for the January 1, 2018 – December 31,

2019 term. This list includes the names provided by the Ozaukee County Republican Party as allowed under State Statutes.

Council Member Dieffenbach stated that he would abstain from voting as he is on the appointment list.

Motion made by Council Member O'Keefe, seconded by Council Member Thome, to approve the appointment of Election Officials for the period 01/01/18 through 12/31/19. Motion carried with Council Members Czarnecki, Arnett, Verhaalen, Regenfuss, Thome and O'Keefe in favor and Council Member Dieffenbach abstaining.

CONSIDER PROCESS TO FILL THE ANTICIPATED 5TH DISTRICT ALDERPERSON VACANCY; AND ACTION THEREON

Council Member Regenfuss gave his official notice that effective January 1, 2018 he is resigning as Fifth District Council Member, as he is moving out of the district.

City Administrator/Treasurer Mertes stated that the City has a policy in place to fill aldermanic position vacancies. It allows the City Clerk to advertise an aldermanic vacancy, accept resumes and for the Council to interview interested individuals at an open Council meeting. The interview questions should be set ahead of time and given to the candidates prior to the meeting.

The Common Council discussed the timeline and filling the 5th District Alderperson vacancy prior to the election.

Council Member Verhaalen was in favor of having representation for the district.

Mayor Kinzel opined that the position should be filled; however, he questioned the length of time remaining prior to the election.

Council Member Thome stated that years ago the School Board decided not to fill an open position with that kind of time frame.

Council Member Czarnecki questioned how effective the person would be for two months.

Council Member Dieffenbach stated that would be the Council's decision after the interview process.

Mayor Kinzel stated that long-time Plan Commission Member Mark Burgoyne has expressed interest in filling the vacant Aldermanic position and he does intend to run in April. He is a placeholder who knows his way around. This is another option.

A proposed timeline for compiling questions and the procedure were discussed.

Council Member Arnett stated that he wanted someone to fill the district as soon as practical.

Motion made by Council Member Arnett, seconded by Council Member Thome, to appoint a replacement for Aldermanic District 5 to be interviewed and start on January 8, representing the district, for January, February, March and until the Organizational meeting in April.

A proposed timeline for compiling questions and the procedure continued.

In answer to Council Member Dieffenbach's question, City Administrator/Treasurer Mertes stated that the applicants get the questions in advance of the interview.

Council Member Thome withdrew her second to the motion, due to the time constraints in gathering the interview questions over the holidays.

City Attorney Herbrand stated that he preferred the Common Council discuss the interview questions at the January 8 Common Council meeting.

Council Member Arnett stated that the interview questions could be compiled prior to the January 8 Council meeting.

Motion made by Council Member Arnett to replace the 5th District Alderperson by discussing the interview questions on January 8 with the intent to replace the position on January 29. Motion was seconded by Council Member Thome.

Council Member Thome understands the representation concern for the District; however, she is also concerned about unintentionally showing favor to the appointed person prior to the election. She wants the election to be as open and fair as possible.

Council Member Czarnecki stated that he understands both sides as there have been some sensitive issues and it would be hard to bring one person up to speed. If the Common Council appoints someone who they think is knowledgeable of the issues that person would have an advantage in April.

In answer to Council Member Verhaalen's question, City Administrator/Treasurer Mertes stated that the person to be appointed must receive a majority of votes from the Council but not less than three to be appointed.

Motion failed with Council Members Arnett and Verhaalen voting in favor, Council Members Czarnecki, Dieffenbach, Thome and O'Keefe opposed, and Council Member Regenfuss abstaining.

Council Member Thome agreed that it is a viable argument that it will take any appointed person time to understand all of the issues.

Council Member Verhaalen stated that it would not be elected representation in the 5th District if the Council makes an appointment.

Council Member Arnett stated that anyone living in the 5th District and is interested in the position would know the issues. He felt it would be a big mistake to not have representation in the District.

Motion made by Council Member Arnett to attempt to replace the 5th District Alderperson by discussing interview questions on January 8 and interviewing applicants on the last meeting in January; whereby the Council has the option of seating that person should they be a qualified candidate at the discretion of the Council be found. Motion seconded by Council Member Verhaalen. The motion failed with Council Members Arnett and Verhaalen in favor, Council

Members Czarnecki, Dieffenbach, Thome, O'Keefe opposed, and Council Member Regenfuss abstaining.

Council Member O'Keefe stated that it may appear that the Common Council is choosing the candidate and giving them an advantage this close to the election. He was comfortable not having representation in the 5th District before the election. If some issue does come up in that district, a decision could be pushed out until after the election.

Mayor Kinzel stated that the Council will need to make that decision at the time.

Council Member Thome stated that the Council Members do represent their districts; however, they also look out for the entire community.

The 5th District Alderperson position will remain open until the April election.

CONSIDER MAYOR KINZEL'S COUNCIL MEMBER APPOINTMENT TO THE COMMUNITY DEVELOPMENT AUTHORITY; AND ACTION THEREON

Mayor Kinzel submitted Council Member Arnett as his Council Member appointment to the Community Development Authority.

Motion made by Council Member Thome, seconded by Council Member Dieffenbach, to approve Mayor Kinzel's Council Member appointment of Council Member Arnett to the Community Development Authority effective on January 1, 2018. Motion carried with Council Members Czarnecki, Dieffenbach, Verhaalen, Regenfuss, Thome and O'Keefe voting in favor and Council Member Arnett abstaining.

CONSIDER PAYMENT OF BILLS FOR THE PERIOD 11/29/17 THROUGH 12/01/17, TRANSFERS FOR THE PERIOD 11/26/17 THROUGH 12/08/17, AND PAYROLL FOR THE PERIOD 11/19/17 THROUGH 12/02/17; AND ACTION THEREON

In answer to Council Member Dieffenbach's question, City Attorney Herbrand stated that it was a fair figure to pay the stenographer \$1,100 to create a record for the appeal that has been filed as she is paid by the page at a standard cost.

In answer to Council Member Dieffenbach's questions, City Administrator/Treasurer Mertes stated that the \$4,900 payment for station improvements is for the Fire Department retaining wall, the payment to Seroogy's is a fundraiser for the Pom Pom program and the Business Card payment is for the credit card with that name.

Motion made by Council Member Dieffenbach, seconded by Council Member Thome, to approve the payment of bills for the period 11/29/17 through 12/01/17, transfers for the period 11/26/17 through 12/08/17, and payroll for the period 11/19/17 through 12/02/17. Motion carried without a negative vote.

CONSIDER LICENSE APPLICATIONS; AND ACTION THEREON

Motion made by Council Member Czarnecki, seconded by Council Member Arnett, to approve a new Operators License application for the period ending June 30, 2018 for Emily A. Pape. Motion carried without a negative vote.

Motion made by Council Member Czarnecki, seconded by Council Member Arnett, to approve a renewal Operators License application for the period ending June 30, 2018 for Kelleen S. Starsky. Motion carried without a negative vote.

ADMINISTRATOR'S REPORT

City Administrator/Treasurer Mertes stated that there will be added charges to the monopole construction budget, due to a creamery being on this site at one time requiring the removal of an old foundation and redesigning a new one. Director Wiza is overseeing the work.

COMMENTS AND SUGGESTIONS FROM CITIZENS - None

COMMENTS & ANNOUNCEMENTS BY COUNCIL MEMBERS

Council Member Czarnecki has been involved in discussions about the Business Park and he is a proponent of paying for some soft costs to start the design of the park.

Council Member Dieffenbach stated that someone must talk to Forward Cedarburg to discuss the history and past files on the project.

In answer to Council Member Dieffenbach's question, City Attorney Herbrand stated that the appeal for August Weber Haus will be paid through attorney fees for argument to the court. It will likely take more than 30 days. Part of the appeal action for the August Weber Haus is to ask for permission to continue operating while the appeal is pending. A decision has not been made.

In answer to Council Member O'Keefe's question, City Attorney Herbrand stated that the appeal could be decided with the briefs or an actual court hearing. The Judge normally has 90 days to render the decision after the hearing.

In answer to Council Member Czarnecki's question, City Attorney Herbrand stated that the August Weber Haus license is revoked; however, they are asking for permission to continue to operate during the pendency of the appeal. That decision will be made by the Judge.

In answer to Council Member Verhaalen's question, City Attorney Herbrand stated that the August Weber Haus must abide by the ordinance if they are allowed to operate during the pendency of the appeal.

In answer to Council Member Thome's question, City Attorney Herbrand said that decision should be made within the next month or so.

Council Member Dieffenbach stated that the Light & Water Utility paid for an energy audit for the Library and was a good example of cooperation with City government. It turned out that the

Library is functioning fairly well but there were a number of recommendations that they can implement to save them money.

Council Member O'Keefe thanked Council Member Regenfuss for his service on the Common Council.

Mayor Kinzel stated that Council Member Regenfuss was a great addition to the City on the Common Council and on the various boards, commissions and committees.

MAYOR'S REPORT – None

ADJOURNMENT – CLOSED SESSION

Motion made by Council Member Dieffenbach, seconded by Council Member O'Keefe, to adjourn to closed session at 9:00 p.m. pursuant to State Statutes 19.85(1)(e) to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session, more specifically, to consider cellular tower leases for location on the monopole being constructed on Western Avenue, to consider the possible sale of a City-owned property on Pioneer Road, and to receive an update on the Amcast property. Approval of November 27, 2017 closed session minutes. Motion carried on a roll call vote with Council Members Czarnecki, Arnett, Dieffenbach, Verhaalen, Regenfuss, Thome, and O'Keefe voting aye.

RECONVENE TO OPEN SESSION

Motion made by Council Member Dieffenbach, seconded by Council Member Regenfuss, to reconvene to open session at 9:46 p.m. Motion carried on a roll call vote with Council Members Czarnecki, Arnett, Dieffenbach, Verhaalen, Regenfuss, Thome and O'Keefe voting aye.

ADJOURNMENT

Motion made by Council Member Regenfuss, seconded by Council Member Arnett, to adjourn the meeting at 9:46 p.m. Motion carried without a negative vote.

Amy D. Kletzien, MMC/WCPC
Deputy City Clerk